



BOULT • CUMMINGS  
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REGULAR MAIL  
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August 17, 2001

EXECUTIVE SECRETARY

David Waddell, Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243

Re: Docket to Establish Generic Performance Measurements,  
Benchmarks and Enforcement Mechanisms for BellSouth  
Telecommunications, Inc.  
Docket No. 01-00193

Dear David:

Please find enclosed the original and thirteen copies of a Motion to Submit Late-Filed Testimony of John Spilman on behalf of Broadslate Networks, Inc. Copies have been forwarded to parties of record.

Sincerely,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: *Henry Walker*  
Henry Walker

*by WLM*

*w/permission*

HW/nl  
Attachment  
c: Parties

BEFORE THE TENNESSEE REGULATORY AUTHORITY  
NASHVILLE, TENNESSEE

In Re: Docket to Establish Generic	)	
Performance Measurements, Benchmarks	)	Docket No. 01-00193
and Enforcement Mechanisms for	)	
BellSouth Telecommunications, Inc.	)	

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MOTION TO SUBMIT DIRECT TESTIMONY

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Broadslate Networks, Inc. ("Broadslate"), a competing local exchange carrier operating in Tennessee, only recently decided to participate in this proceeding and filed a petition to intervene on August 16, 2001. As stated in the petition to intervene, Broadslate is concerned that the proposed performance measures under consideration by the Authority may not be sufficient to insure that BellSouth Telecommunications, Inc. ("BellSouth") complies with the open access and non-discrimination provisions of the federal Telecommunications Act. To illustrate that point, Broadslate asks to present testimony from Mr. John Spilman, director of regulatory affairs and industry relations, concerning four incidents, all occurring within the last three months, involving BellSouth's anti-competitive conduct in Tennessee. Those incidents, and the substance of Mr. Spilman's testimony, are set for in the attached documents.

Broadslate submits that the late filing of this testimony will not prejudice BellSouth which will have a full opportunity to cross-examine Mr. Spilman about these incidents. Furthermore, Broadslate will not object if BellSouth wishes to introduce supplemental rebuttal testimony, either written or live, concerning the four incidents.

For these reasons, Broadslate asks that this Motion be granted.

Respectfully submitted,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By: Henry Walker *by wlm*  
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P.O. Box 198062  
Nashville, Tennessee 37219  
(615) 252-2363  
*Counsel for Broadslate Networks, Inc.*

## CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing has been forwarded via facsimile or hand delivery, to the following on this the 17th day of August, 2001.

Guy Hicks, Esq.  
BellSouth Telecommunications, Inc.  
333 Commerce St.  
Suite 2101  
Nashville, TN 37201-3300

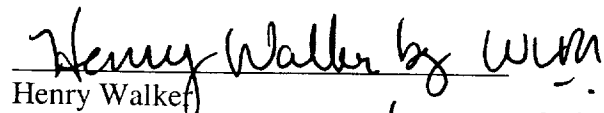
Jim Lamoureux, Esq.  
AT&T Communications of the South Central States  
Room 8068  
1200 Peachtree St., NE  
Atlanta, GA 30309

Tim Phillips, Esq.  
Office of the Attorney General  
Consumer Advocate and Protection Division  
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Charles B. Welch, Esq.  
Farris, Mathews, et al.  
618 Church Street, #303  
Nashville, TN 37219

Dana Shaffer, Esq.  
Xo Tennessee, Inc.  
105 Molloy St.  
Nashville, TN 37201

  
Henry Walker  
w/permission

## Incident 1

Date: May 17, 2001.1730

BellSouth Problem: Card Reader @CHTGTNDT.

Broadslate Problem: Broadslate CO tech could not access the CHTGTNDT central office because he was issued an invalid code on his access pass. At 1800 Broadslate calls the ACAC center (205) 714-5100 and spoke with Linda who in turn called the CO Manager who would not grant the Broadslate Tech access to the site even though the Broadslate tech had proper picture ID. We had customers out of service because of an equipment failure in our collocation cage.

According to BellSouth that night, the card reader system was not working and the code on the card belonging to Scott Simpson could not be verified or modified to allow access. 32 customers were affected. An important point to make here is that our CO technician, holding proper identification, was on the steps of the CO with an access card that was not working due to failure of the card key system (per BS), and the BS CO manager would not even consider escorted access to our cage to reboot the Stinger DSLAM.

## Incident 2

My name is Janice Meissner and I'm an employee at Broadslate Networks, Inc. On or about June 26, 2001 I signed up for Broadslate broadband service at my home in Chattanooga. On or about August 1, 2001, a BellSouth technician came to my house to install the unbundled loop that Broadslate had ordered from BellSouth in order to provision by broadband service. When BellSouth was at my home to deliver the circuit they discovered that the loop distance exceeded 18,000 ft and by Broadslate's standards, is too far to provision service on the type of 2-wire unbundled loop that was ordered. In this situation, I as a customer, have the option to select an alternative transport facility in order to receive Broadslate's service even though my location exceeds 18,000 ft. Broadslate refers to this as an Extended Loop and it utilizes the unbundled DS1 as the transport facility. While I was discouraged about the distance being beyond 18,000 ft, I knew that I had another option to still receive service from Broadslate. Because I was home at the time the Bellsouth technician came out, I talked to him a little bit. He asked if I was a Broadslate employee (apparently that had come up when he was testing with us.) He told me I would be able to get ADSL from BellSouth if I wanted it because they had a remote DSLAM about 1/2 mile from my house.

### Incident 3

July 26, 2001

Darryl Washington  
Account Manager  
BellSouth  
9<sup>th</sup> Floor  
600 North 19<sup>th</sup> Street  
Birmingham, AL 35203

Dear Darryl:

Please be advised that Broadslate Networks, Inc. considers BellSouth's inability to successfully deliver UCL-ND loops on the FOC date a failure to meet the obligations of our Interconnection Agreement and the subsequent UCL-ND Amendment.

Due to a lack of accurate documentation and conflicting instructions between the LCSC and the account management team, Broadslate had a difficult time ordering the UCL-ND. Now that we have partially overcome the ordering hurdle these orders are getting held up in the BellSouth provisioning process and critical FOC dates are being missed. By BellSouth's own admission, you have not properly implemented the processes to correctly flow UCL-ND orders, or trained personnel sufficiently to process and complete the UCL-ND orders, on the due dates provided by BellSouth.

- Between 7/18/01 and 7/25/01 BellSouth missed the FOC date on 26 of 34 UCL-ND orders and these 26 have still not been completed.
- There are another 64 orders that have FOC dates between 7/26/01 and 8/1/01 that are in jeopardy given current performance.

The overwhelming majority of these orders (75) are for BlueStar customers that will have their service terminated by BlueStar service on August 1, 2001. It is this condition that makes this such a critical problem.

Broadslate was pleased with the discussion and commitment that was expressed on our conference call this morning. To summarize the commitment made by BellSouth on the call:

- BellSouth has identified the problem areas associated with these orders and taken corrective action.
- All 26 that were not completed on the due date will be completed today (7/26/01)
- All 64 orders that have due dates between 7/26/01 and 8/1/01 will be completed on the due date.
- BellSouth will advise technicians, in advance of receiving the supplemented orders, that cooperative testing should be performed on these orders and Broadslate will supplement

these orders to request cooperative testing after we agree on the correct format with the account team (Cynthia Hodges).

Broadslate expects BellSouth to meet the commitments made this morning to correct the problems with UCL-ND product. This will give us an opportunity to deliver service to BlueStar customers prior to their disconnection of service on Aug. 1, 2001. Anything short of meeting your commitments is unacceptable.

Sincerely,

John Spilman  
Director, Regulatory Affairs & Industry Relations



#### Incident 4

Customer: Hospital Alliance of Tennessee

Date of Sale: July 6, 2001

Order Placed for UCL-ND: 7/12/01

Order Accepted by BellSouth: 7/31/01

Original FOC Date: 7/20/01

Sometime between the 7/13 date and 7/24 Broadslate was advised that there had been some problems ant that we would be receiving a revised FOC date.

Advised of new FOC date: 7/24/01

New FOC date: 7/31/01

On 7/24 Broadslate's Customer Advocate advised the customer of the new FOC date of 7/31. Upon hearing this the customer became very nervous about not being up by 8/1 because BlueStar was discontinuing service on that date. Customer called BellSouth on 7/24 to see if they could provide broadband service by 8/1 and they said yes, no problem, and installed service on 7/27. Customer said she was nervous about going with another small company (stated this after FOC date got pushed to 7/31) and decided to go with BellSouth because she knew they weren't going anywhere.

BellSouth installs retail DSL service: 7/27

Customer opts to exercise Broadslate 30 day cancel provision with no obligation: 7/27